

THE ROLE OF THE UN CONVENTIONS AND POLICE AS THE INSTRUMENT OF THE CRIMINAL JUSTICE ADMINISTRATION IN THE PROTECTION OF HUMAN RIGHTS

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ABSTRACT

The aim of this paper is to review the prevalence of human rights issues in general and how the UN convention and criminal justice administration (police) play their role in the protection of human rights. Therefore the paper refers to various secondary sources which include online books and articles, websites, reports and magazines to give evidence to the statement above. The findings show that there is an efficient role being played by both the UN conventions and the criminal justice in managing the human rights, however, there is a space to fill the gap in human rights law. This paper would give a base idea to future researchers who are willing to examine the role of police and UN conventions in the aspect of human rights protection.

KEYWORDS: *UN Convention, Criminal Justice Administration, Police, Human Rights, International Peace & Security*

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INTRODUCTION

"Injustice anywhere is a threat to justice everywhere" – Martin Luther King

The United Nations (UN) has made enormous positive contributions in maintaining international peace and security, promoting cooperation among states and international development (United Nations, 2016). The UN came into being in 1945, following the devastation of the Second World War, with one central mission: the maintenance of international peace and security (United Nations, 2018). The role and function of UN assembly is to discuss, debate, and make recommendations on subjects pertaining to international peace and security, including development, disarmament, human rights, international law, and the peaceful arbitration of disputes between nations (CFR, 2017). So, the convention has been introduced that is a formal agreement between states. Conventions are normally open for participation by the international community as a whole, or by a large number of States (UNICEF, 2013). The UN conventions have repeatedly emphasized the need to integrate human rights into the broad range of its activities which include the environment, disarmament, human rights, law of the sea and the refugees. Several human rights bodies, International conferences, agreements and UNO have set out the rules for the states to secure the human rights.

On the other hand, to protect the human rights in the domestic arena, State needs a mechanism known as Criminal Justice Administration. The Criminal Justice Administration includes three basic organs, the Police, the Court and the Prison. The basic concern of the police in particular and Criminal Justice Administration in general is to protect the rights of the citizens. The Police are primary and a frontier agency of this Criminal Justice System.

It is the police, which not only brings the culprits before the judiciary, but also checks any further infringement of human rights beforehand by maintaining law and order. The police agency directly deals with the people. Hence, it is a significant body to protect the human rights. But the role of the police is also marred by a paradoxical situation when the very rights, it is supposed to protect, come under threat at the hands of the police itself. Almost all human rights agencies, whether governmental or non-governmental, have reported or received complaints against the police as a major violator of human rights. The human rights situation is sometime presented in media in simple terms of black and white without analysing the complexities of the situation and that of the role of the police. The present paper aims to analyse this very situation. The working of the police is not independent; it depends upon the policies and laws of the State and the social milieu in which it operates. Police cannot be viewed as an independent body. It is to be studied as an organ of a given Criminal Justice System. Hence, the present paper also focuses on the role of police with the perspective of human rights. The main reason for choosing both the concept of the role of the police and UN conventions in protecting the human rights is because of personal interest of researcher towards police and the UN convention on human rights and further the present situation of human rights in some countries is worst so the condition induce the researcher to take this concept as primary one.

NATURE OF HUMAN RIGHTS ISSUES IN GENERAL

Human rights are the basic rights and freedoms that belong to every person in the world, from birth until death regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination (Equality and Human Rights Commission, 2018). Yet today, there are numerous issues that need to be addressed, owing to the global instances of human rights violations (Opinion Front, 2016).

Some of the human rights issues are listed here,

Infanticide involves either denying a child, the right to live after being born or the right to be born it, which results from intentional killing of the child. Gender-selective infanticide is thus a deep-rooted problem in numerous countries of the world, including India, China, Australia, Papua New Guinea, South Korea, Afghanistan, Bangladesh, Pakistan, Taiwan, Armenia, and Albania. Numerous measures have been taken by various countries in order to curb the ratio of human infanticides. For instance, the Infanticide Act, 1938.

Child Abuse is one of the worst forms of human rights violation that is prevalent in societies all across the globe. It deprives a child of the right to live peacefully, and without any fear. Child abuse may take numerous forms, such as bonded labour, sexual abuse, pornography, prostitution and drug trafficking, forced recruitment of children into armed conflict, and so on. Research tells us that most children, who seem to undergo various forms of child abuse, belong to socially underprivileged classes.

The Federal Child Abuse Prevention and Treatment Act (CAPTA), addresses the issue and offers assistance for the prevention, assessment, investigation, and prosecution of such incidents.

Terrorism is the most crucial issue that is violating a basic human right of hundreds and thousands of people to live a secured life with peace and harmony. Protection of human rights thus, should aim at putting in an effective counter-terrorism effort, which will safeguard human rights, protect democracy, and uphold the rule of law in the society.

The European Convention on the Suppression of Terrorism, 1977, aims at taking strict measures against all the terrorist activities that take place in the contracting states.

Racism may occur in the society at various levels, right from school to the workplace. It is a notion that considers one race superior to the other and hence, gives rise to conflicts leading to humiliation, torture, and sometimes, death. The International Convention on the Elimination of All Forms of Racial Discrimination adopted by the U.N. General Assembly in 1965, stresses on racial discrimination, and aims at preventing all acts amounting to the same.

Land grab is one of the major modern-day issues of human rights violations, many times even leading to forced evictions of those who oppose it. The United Nations International Covenant on Civil and Political Rights safeguards people against "arbitrary and unlawful interference" within their homes.

Human trafficking is the second largest, and one of the fastest growing crimes in the world. It leads to what may be called 'modern-day slavery', and involves illegal and sometimes forced or fraudulent trade of men, women, and children.

To overcome these kinds of human rights issues, there are several governing bodies involved in protecting the human rights which include Human Rights Council, Human Rights Council Complaint Procedure, Universal Periodic Review, Special Procedures of the Human Rights Council and Commission on Human Rights (replaced by the Human Rights Council), Committee on the Rights of the Child (CRC), Human Rights Committee (CCPR), Committee on the Elimination of Racial Discrimination (CERD), Committee on Economic, Social and Cultural Rights (CESCR), Committee against Torture (CAT), Committee on the Elimination of Discrimination against Women (CEDAW), Committee on Migrant Workers (CMW), Subcommittee on Prevention of Torture (SPT), Committee on the Rights of Persons with Disabilities (CRPD) and Committee on Enforced Disappearances (CED). In addition to these bodies, there are some other UN bodies and entities involved in human rights promotion and protection such as United Nations Educational, Scientific and Cultural Organization (UNESCO), International Labour Organization, United Nations Human Settlements Programme (HABITAT) etc. (OHCHR, 2018). However, the upcoming section specifically discusses the role of UN convention on human rights protection and promotion.

THE ROLE OF UN CONVENTIONS ON HUMAN RIGHTS PROTECTION AND PROMOTION

The abuses and issues related to Human Rights are an important matter all over the history of human being. Whether it is the Vedic scriptures, the Bible, the Analects of Confucius or the Babylonian code of Hammurabi, Quran, all these are measured as the most reliable and ancient documents encouraging responsibilities, duties, and rights, of the human beings and the principle moralities of justice and equality. The human rights history has a close connection with the UN establishment and World War II. The Human Rights are indivisible and inalienable states that not even a single person can mislay or denied these rights. Simultaneously, it had suffered few drastic changes, sometimes even ground-breaking changes. The UNO (United Nations Organization) along with the international community has accepted several declarations, conventions, and other documents target in promoting and protecting the human rights.

The UN interest for Human Rights became an important problem of International agenda after the end of two world wars. The UN signed the declaration on 01 January, 1942. The term "Human Rights" was first used in that document as it perceived the need "to safeguard human rights and equity in our territory and additionally in other territories (United Nations, 1942). Thus, it approved the belief of Human Rights protection in every nation. Subsequently the Allied forces set up the 'Nuremberg Trial' (Kirsch, 2007) which attempted the people engaged with the infringement of Human

Rights amid the World War-II. The UDHR (Universal Declaration of Human Rights) comprises of a list of basic principles that have been obviously supported. And many principles were incorporated into national Constitutions by numerous Governments across the world. Few rights, which are granted under the UDHR comprise of, the Right to security, liberty and life of person; independence from servitude and slavery; independence from cruel or torture, slavery or inhuman or degrading treatment; equal protection of laws and equal opportunity before the law; not being subjected to arbitrary arrest, nationality; exile or detention; residence and movement freedom; marriage and to establish a personal freedom of thought, religion and conscience; association and peaceful assembly; education and health; work. For instance, the UDHR denotes: Each person has the right to liberty, security, and life of a person” and “Everybody is enabled to an international and social order wherein the freedoms and rights expressed in the current declaration could be realized completely.”

The Human Rights has been secured and promoted by the UN in various methods which are as per the following:-

- Human Rights Consciousness: Through various declarations and different means of propaganda UN raised the consciousness among the public and nations concerning the Human Rights issue(OHCHR, 2017).
- Codification of Human Rights: The classifications of rights with a view to clarify the meaning for all categories of people like children, workers, women, migrants, stateless persons and refugees.
- Monitoring of Human Rights: The techniques and implementation of observing the status of Human Rights by means of different working groups, treaty bodies and special rapporteurs. There are two types of mechanism, conventional and non-conventional (Karimova, Giacca and Casey-Maslen, 2016). The bodies such as Economic Committee, Committee against Torture, Racial discrimination Committee, Human Rights Committee, Social and Cultural Rights, Committee for Child Rights, Committee for elimination of Women Discrimination etc. are included in Conventional mechanism. Non or additional Conventional Mechanism incorporates specialists assigned with unique Human Rights commands act with respect to their own ability and are appointed as special reporters, it likewise incorporates non-legislative offices and comparative bodies.
- Procedures for individual complaints: Individuals are allowed to make appeals before the pertinent International bodies concerning the infringement of Human Rights by means of various Human Rights treaties. In 1970, the Economic and Social council affirmed the resolution 1503 named “Procedure for Dealing with Communication Relating to Violations of Human Rights and Fundamental Freedoms” (Subbian, 2003). The complaints made by the individuals or NGO can be sent to the UN High Commissioner office for Human Rights which is situated in Geneva. This office has concerned primarily with the Political and Civil Rights. These petitions made by individuals help to keep an eye on Governmental infringement of Human Rights because they give a wellspring of evidence to International Organizations (Verma, 2002).
- Compilation of Information on Violation of Human Rights(United Nations, 2017).
- Examination of Human Rights situations. In order to avoid grievous faults and to observe the condition of Human Rights in any nation, the Secretary General may send a proficient.
- Coordination of Human Rights activities - In order to strengthen and co-ordinate the activities of Human Rights the High Commissioner post for Human Rights was made in the year of 1993.

- Advisory services were made for the Government to promote the performance of Human Rights by co-operating in constitutional activities like drafting for the establishment of Human Rights Institutions, to enhance electoral laws, renovating the judiciary or planning new Criminal codes(OHCHR, 2003).

Moreover, the UN plays a significant role in the International agreements concerning Human Rights on administration of Criminal Justice.

THE ROLE OF CRIMINAL JUSTICE ADMINISTRATION (POLICE) ON HUMAN RIGHTS PROTECTION AND PROMOTION

Criminal justice administration gives legal procedures and arrangements via that the individual can need justice in the event of the rights violation and can further attempt to find suitable compensation and a remedy for it (Kaur, 2013). According to the committee report of the Draft National Policy of Criminal Justice, criminal justice was referred as the criminal procedure, criminal law, the enforcement of criminal law and the persons involved in controlling this system (Menon, 2007). The aim is to control and prevent the crime, maintaining the peace among the public, protecting the people and the rights from the law and punishment and even the rehabilitated people. So, in general, it is to protect the properties and lives of the people from criminal actions (Liu, Heberton and Jou, 2012). On some occasions, it has failed to give justice or to get redress as a result of delayed justice, even sometimes it has violated the citizenship rights. The results happen in structural and procedural format and additional environmental factors were also accounted for political and social events. Protecting the rights is the main objective of all the Criminal Justice System still it is violated in some stances. An important objective is to have great concern for each and every society like the criminal justice system, police, and human rights.

Among the three of criminal justice administration, police playing a major role. Only the police have the authority for protecting the human rights. The aim of the international standards for police is to improve the positive connections between human rights and police administration also to reduce the negative clashes between various concepts like arbitrariness, abusing power, and discriminatory treatment (Schreuer, 2007). All this can be implemented by making few changes in the police culture. For police officers, protecting the human rights is the core element of their job (Pastor, 2015). To put it differently, police is interlinked body of persons where the law was enforced, civil disorder are limited and the property is protected (Manjaria, 2014). From the Prison's Act 1894, it was found that people who have not convicted any criminal activities must be kept separate from the prisoners who have convicted the criminal activities. All these are made with the needs for protecting innocent people from various harmful effects, where the convicted criminals were housed (Dieter, 1997). Only because of this reason, the police in the civilized society is the main pillar for securing the human rights, giving protection and offering their service to the people as well as maintaining the order (Prabhakar, 2014). If a policeman has decorum for his job in the society, a sense of discipline, honour to human beings, and follows strict morality in his profession, then that policeman will equally honour and respect the rights of other people (Haveripeth, Angadi and Kalyan, 2016).

For protecting the people, police have received authority to act in a specific way of serving them. The police act as centurions before the gate, law defenders, and freedom supporters uphold human rights, individual liberty, and maintains the legality as commonly available (Greene, 2010). Each and every day human rights are losing its power in certain countries, especially in Eastern and Southern Africa. With the pressure, dealing harshly by raising the crime levels or by political manipulating, police practices tortures and abusing political activists and criminal suspect.

Unjustified or excessive lethal forces are employed for suppressing peaceful protest. All the opponents who are against the government were detained without any reason (Amnesty International, 2002).

The Supreme Court of the United States has ordered in 2005 that the police does not possess any legal duty of protecting the person from danger (Greenhouse, 2005). The aim of the police is to protect human rights where it can be fulfilled by realizing the power of police in the starting itself than regarding at the last. Through this leadership, the police are there to help the people anytime. All the police officers must see themselves as a person following ethical ways and also possess higher qualities of human excellence, ethical and humane etc.(Guthrie, 2008). With this standard, police are called as powerful professionals. Professionalism is a way of balancing both knowledge and skill in a proper way also for responding the requirements of the people (Iacovino, 2002). During the investigations, third-degreetreatment is given to the suspects or other people who are under custody. This is one among the dangerous methods conducted for the poor socio-economic status of the people in the society. This shows that all the police stations are lacking from professionalism and police workforces do not possess them. Insulting the victims through unlawful ways with political influences is another important area for Criminal Justice Administration, which requires immediate and serious focusing capacity (Varsbney, 2006). The departmental ombudsmen system must be there to regular check the malfeasance and corruption and to examine the complaints regarding abuse and harassment also they would observe all the movements of the police. For an example, if a police leader was professional then their subordinates will also behave in the same way. Probably, the Indian Police are responsible for protecting Human Rights (Prasanna, 2013).

Police work envelops defensive and preventive parts over the span of keeping up the peace. Furthermore, protection and prevention include starting projects to decrease communal and caste pressures and diminish opportunity for criminal exploitation and teach the natives about the crime avoidance measures. Furthermore, police work likewise includes numerous assignments that happen well beyond public notice and which are frequently tedious, excessively normal, and too much difficult (Tiwari, Khandare and Mohapatra, 2003). In a well-ordered welfare and democracy express the police should be a restrained power prepared to maintain the law and implemented law based foundation to work on constitution lines(Bureau of Police Research and Development, 2007). Considered and organized as a staunch partner and the foundation generated by it, the police framework set up by the demonstration of 1861 developed in time into a veritable colonial lawfulness force. A kind of police raj had most likely taken formed by 1947, where the police was a noteworthy player in the requesting of urban and rural culture, in the concealment of political resistance and in combination of state control (Mehra and Lévy, 2011). (David, Tafadzwa and Collen, 2012) evaluates the ZRP law authorization with regards to human rights instruments approved by Zimbabwe and talk about how the ZRP has reacted to the pressure of working in a politically energized society. The paper additionally examines the effect of police exercises on the nation's human rights record and makes proposals on how the police can enhance the insurance of human rights.

CONCLUSIONS

Overall the reviews revealed the role of UN conventions and criminal justice administration, especially the police role and issues in promoting and protecting the human rights in general context. It is noticed that the UN conventions has strongly execute the ideas to protect the human rights. Likewise, the police department also attempts to protect the human rights while managing their difficult situations. From this, it is clear the human rights issues are common at the same time, various UN conventions and police playing their individual role in managing the human rights issue. It is not easy to sort out all the human rights issues for both police and UN conventions.

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